

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TORI BELLE COSMETICS, LLC,

Plaintiff,

v.

NATALIE MEEK, *et al.*,

Defendants.

CASE NO. 2:21-cv-00066-RSL

ORDER DISMISSING CLAIMS
AGAINST AFFILIATE
DEFENDANTS

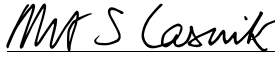
This matter comes before the Court on a motion for summary judgment filed on behalf of defendants Anna M. Hone, Johnette Rutledge, and Kinzie Jones. Dkt. # 159. Although the motion is untimely, had it not been filed, the Court would have issued an order requiring plaintiff to show cause why its claims against the Affiliate defendants should not be dismissed for failure to produce admissible evidence of damages arising from the conduct of Ms. Hone, Ms. Rutledge, Ms. Jones, and/or defendant Jennifer Russo. There being no reason to go to trial on claims that cannot, as a matter of law, be successfully prosecuted, the Court exercises its discretion to consider the untimely motion and *sua sponte* evaluate the viability of the claims against Ms. Russo.¹

¹ The Court recognizes that Ms. Russo has not filed a motion for summary judgment. Where, as here, a party has had ample opportunity to show a genuine dispute of fact on a dispositive issue, it is appropriate for the district court to

1 For the reasons stated in the Order Granting in Part Natalie Meek’s Motion for
 2 Summary Judgment (Dkt. # 157), plaintiff’s damages evidence is inadmissible under Fed.
 3 R. Civ. P. 37(c)(1). Plaintiff has again failed to formally request a lesser sanction than
 4 exclusion,² *Vanderberg v. Petco Animal Supplies Stores, Inc.*, 906 F.3d 698, 705 (8th Cir.
 5 2018), and is therefore “not allowed to use that information or witness to supply evidence
 6 on a motion, at a hearing, or at a trial.” *Merch. v. Corizon Health, Inc.*, 993 F.3d 733, 741
 7 (9th Cir. 2021) (quoting Fed. R. Civ. P. 37(c)(1)).
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10 As discussed in the Court’s prior order, the lack of evidence of damages arising
 11 from the wrongful conduct alleged is fatal to each of plaintiff’s claims against the moving
 12 defendants and Ms. Russo. Tori Belle’s claims against the Affiliate defendants are hereby
 13 DISMISSED with prejudice.
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 16 Dated this 23rd day of May, 2023.

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 18 
 19 Robert S. Lasnik
 United States District Judge

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 grant summary judgment to the non-moving party *sua sponte*. See *Albino v. Baca*, 747 F.3d 1162, 1176 (9th Cir. 2014).

25 ² Even if a request for a lesser sanction had been made, the evidence at issue would require the jury to speculate
 26 regarding the amount of damages caused by these defendants’ individual or collective actions. See Dkt. # 157 at 11 n.6.